

JUL 14 2008



FAX COVER PAGE

DATE: July 14, 2008

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TO: Examiner Amuradha Ramana, Group Art Unit 3733
COMPANY: U.S. Patent and Trademark Office

FAX NUMBER: 571-273-8300
PHONE NUMBER:

FROM: Douglas A. Collier

DIRECT DIAL: (317) 238-6333

FAX NUMBER: (317) 636-1507

RE: Request for Refund for U.S. Patent Application No. 10/769,569 to Roy Lim

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204
TELEPHONE-(317) 636-4341
FAX-(317) 636-1507

KRIEG DEVAULT LLP
12800 N MERIDIAN STREET
SUITE 300
CARMEL, IN 46032
TELEPHONE-(317) 566-1110
FAX-(317) 636-1507

KRIEG DEVAULT GALVIN
LLP
5231 HOHMAN STREET
HAMMOND, IN 46320
TELEPHONE-(219) 933-0380
FAX-(219) 933-0471

KRIEG DEVAULT LUNDY
LLP
825 ANTHONY WAYNE
BUILDING
203 EAST BERRY STREET
FT. WAYNE, IN 46802
TELEPHONE-(260) 422-1534
FAX-(260) 423-1590

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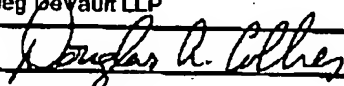
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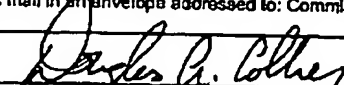
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10769,569
	Filing Date	January 30, 2004
	First Named Inventor	Roy Lim
	Art Unit	3733
	Examiner Name	Anuradha Ramana
	Attorney Docket Number	MSDI-219/PC902.00
Total Number of Pages in This Submission		

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
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<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Fax Cover Sheet; Request for Refund; Copy of Response to Final Office Action dated 12/05/2007
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Krieg DeVault LLP		
Signature			
Printed name	Douglas A. Collier		
Date	July 14, 2008	Reg. No.	43,556

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:	
Signature	
Typed or printed name	Douglas A. Collier
Date	July 14, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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KD_DM-1627648_1

JUL 14 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE 2008 III 16 Pt. 3: 21In re patent application of:
Roy Lim et al.

Application Serial No. 10/769,569

Filed: January 30, 2004

INSTRUMENTS AND METHODS FOR
MINIMALLY INVASIVE SPINAL
STABILIZATIONBefore the Examiner:
Anuradha RamanaAttorney Docket No.:
MSDI-219/PC902.00

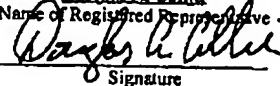
Group Art Unit: 3733

July 14, 2008

REQUEST FOR REFUND OF FEESMAIL STOP 16
Director of the U.S. Patent and Trademark Office
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Sir:

The U.S. Patent and Trademark Office recently charged \$1,050.00 to Deposit Account No. 12-2424 for the filing of a 3-month Extension of Time in the subject application. As set forth herein, the \$1,050.00 fee charged to Deposit Account No. 12-2424 is improper. Accordingly, a refund of the \$1,050.00 fee to Deposit Account No. 12-2424 is respectfully requested.

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Request for Refund of Fees
Application Serial No. 10/769,569
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With regard to the subject application, a Final Office Action was mailed by the USPTO on November 1, 2007. Applicant's representative filed a response to the Final Office Action on December 5, 2007, along with an amendment to place the application in condition for allowance. The December 5, 2007 response is shown in PAIR. The response was filed within two months of the final rejection. MPEP 706.07(f) makes clear that "if the reply is filed within 2 months of the date of the Final Office Action, the shortened statutory period will expire 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later." MPEP 706.07(f) further states that "[i]n no event can the statutory period for reply expire later than 6 months from the mailing date of the final rejection." In this application no advisory action was mailed by the USPTO in reply to the December 5, 2007 response of the applicants. Therefore, the shortened statutory period for response did not expire in this application until 6 months from the final rejection, or on May 1, 2008. As shown in PAIR, a Notice of Appeal and request for a Pre-Appeal Brief Conference was filed in this application on May 1, 2008, within the statutory period for reply. Therefore, no extension of time was filed with the Notice of Appeal, nor should any extension fee have been charged to Deposit Account No. 12-2424.

In view of the foregoing, it is submitted that the \$1,050.00 fee charged to Deposit Account No. 12-2424 was in error. Accordingly, pursuant to 37 CFR §1.26, a refund to Deposit Account No. 12-2424 in the amount of \$1,050.00 is respectfully requested.

Respectfully submitted,

By: Douglas A. Collier
Douglas A. Collier
Reg. No. 43,556
Krieg DeVault LLP
One Indiana Square, Suite 2800
Indianapolis, Indiana 46204-2079
(317) 636-4341

Request for Refund of Fees
Application Serial No. 10/769,569
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Document code: WFEE

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